THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.15461 OF 2007

DATED: 07-09-2007

BETWEEN

Sri Gokula Krishna Mutually Aided
Co-operative Society Limited,
Rep, by its President, M. Satyanarayana
Raju, S/o. Chentaiah, Occ: President,
R/o. Tokapally Gram Panchayat,
Peddaravedu Mandal, Prakasam District.

...PETITIONER

AND

The District Panchayat Officer,
Ongole, Prakasam District and two
others.

...RESPONDENTS

ORDER:

Learned counsel for the petitioner-society submits that the petitioner-society is a registered society under the Andhra Pradesh Mutually Aid Co-operative Societies for the purpose of procuring, purchasing, storing, utilizing and distributing inputs required for income generating activities and consumer articles and durables need for household requirements. He submits that the petitioner-society obtained permission from the District Panchayat Officer vide proceedings dated 17.11.2003 to establish market for the purpose of selling cattle from 22.06.2003 to 31.03.2006 in an extent of 3 acres of land situated in Sy.No.5/3, Hanuman Junction, Tokapally Gram Panchayat, Peddaravedu Mandal. The petitioner-society was also permitted to collect parking fee for the vehicles that would be parked and to deposit 15% of the amount so collected to the treasury of the Gram Panchayat.

2. The learned counsel further submits that before the expiry of the said period, the petitioner-society made an application dated 25.02.2006 seeking extension of permission to conduct the above said business from 01.04.2003 to 31.03.2009 and the first respondent accorded permission vide his proceedings dated 25.05.2006. While so, the third respondent formed a society and got registered on 25.06.2007 and without obtaining any permission from the first respondent started running business in the vicinity of Hanuman Junction contrary to Sections 104 and 105 of the Panchayat Raj Act, 1994 (for short 'the Act'). He further submits that the petitioner-society also made a complaint before the second respondent – Gram Panchayat, but the second respondent expressed its helplessness advising the petitioner-society to approach the first respondent – District Panchayat Officer. Accordingly, the petitioner-society approached the first respondent orally informing him about the business conducted by the third respondent, but the first respondent has not taken any action.

3. I am of the opinion that without there being a written complaint before the first respondent filed by the petitioner-society, it may not be just and proper to direct the respondents 1 and 2 to take appropriate action against the third respondent.

4. At this stage, the learned counsel for the petitioner submits that subsequent to the filing of the writ petition, the petitioner-society has made a written representation and in fact, action has been initiated.

5. If that be so, I am of the opinion that if appropriate action has not been initiated pursuant to the written representation, it is always open for the petitioner-society to question the action of the respondents seeking a Writ of Mandamus directing them to take appropriate action, but without there being a written representation as on the date of filing of the writ petition, no writ of Mandamus can be issued.

The writ petition is accordingly dismissed with a liberty to the petitioner-society to file a fresh writ petition pursuant to the said written representation. There shall be no order as to costs.

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V. ESWARAIAH, J

September 7, 2007
DSK